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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,773	11/14/2005	Anthony B. Fuller	5658/2	2436
24239	7590	04/03/2008	EXAMINER	
MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			WATSON, ROBERT C	
ART UNIT	PAPER NUMBER			
	3723			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,773	<b>Applicant(s)</b> FULLER ET AL.
	<b>Examiner</b> Robert C. Watson	<b>Art Unit</b> 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 23 January 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-41 is/are pending in the application.

4a) Of the above claim(s) 21-37 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-20, 38-41 are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-166/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

Since the elected species of Figure 1 contains claims to several subcombinations useable in the disclosed combination a further restriction requirement is being made due to the serious search burden imposed by these distinct groups.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 13-14 drawn to a clamp having a brake actuator having a trapezoidal shape.
- II. Claim 38, drawn to a clamp having a first and second ears with front and rear faces on ears that may be pressed to achieve first and second modes of operation.
- III. Claim 39, drawn to a clamp having a brake actuator the pivots about an axis parallel to the brake lever.
- IV. Claim 41, drawn to a clamp having a movable jaw (in addition to the clamping jaw) and having an ear that translationally moves from one edge of the slot to an opposite edge of the slot.

Claims 1-12, 15-20, and 40 will be examined with any elected group.

Inventions I-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. **In the instant case, subcombination I having a trapezoidal shaped brake actuator rib does not have to have two ears with first and second sides to be pressed for two stage operation, rather the trapezoidal shaped brake actuator rib may be actuated by a rotating cam. Subcombination II having two**

**mode operation with first and second ears with front and rear faces need not have a trapezoidal shape, rather the ears could have projecting pin to engage the brake actuator. A similar analysis can be made when comparing any of the two groups with the same result of the groups being separately useable. See MPEP § 806.05(d).**

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries); **The search for group I requires a separate text search for a trapezoidal shaped brake actuator that is not required for the searches of the other groups.** The search for group II requires a separate text search for two ears with ribs having front and rear faces and two modes of operation that is not required for the searches of the other groups. The search for group III requires a separate text search for ears that translate in a slot that is not required for the searches of the other groups. The search for group III requires a separate text search for a brake actuator that pivots about an axis parallel to the brake lever that is not required for the other groups. These different unique searches present a serious burden for the Office.

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Claims 21-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/12/07.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert C. Watson/

Primary Examiner, Art Unit 3723